

HOUSE BILL No. 1538

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10-13.

Synopsis: Public safety disability presumption. Provides that an individual who: (1) is employed full time as an emergency or public safety employee; and (2) also serves as a volunteer firefighter, emergency medical technician, or first responder; is entitled to a presumption that, if the individual is diagnosed with certain health conditions resulting in disability or death, the disability or death resulting from the health condition is a disability or death incurred in the line of duty for purposes of qualification for certain benefits.

Effective: July 1, 2005.

Smith J, Ruppel, Harris T, Bischoff

January 18, 2005, read first time and referred to Committee on Public Safety and Homeland Security.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1538

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter, "employee" means an individual who:

(1) is employed full time by the state or a political subdivision of the state as:

(A) a member of a fire department (as defined in IC 36-8-1-8);

(B) an emergency medical services provider (as defined in IC 16-41-10-1);

(C) a member of a police department (as defined in IC 36-8-1-9);

(D) a correctional officer (as defined in IC 5-10-10-1.5);

(E) a state police officer;

(F) a county police officer;

(G) a county sheriff;

(H) an excise police officer;

(I) a conservation enforcement officer;

(J) a town marshal; or



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- 1 (K) a deputy town marshal;
 2 (2) in the course of the individual's employment is at high risk for
 3 occupational exposure to an exposure risk disease; and
 4 (3) is not employed elsewhere in a similar capacity, **except for an**
 5 **individual's service as a volunteer.**

6 SECTION 2. IC 5-10-13-4.5 IS ADDED TO THE INDIANA CODE
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 8 1, 2005]: **Sec. 4.5. As used in this chapter, "service as a volunteer"**
 9 **means service by an individual in any of the following capacities on**
 10 **behalf of the state or a political subdivision of the state:**

- 11 (1) **A volunteer firefighter (as defined in IC 36-8-12-2).**
 12 (2) **An emergency medical technician (as defined in**
 13 **IC 16-18-2-112) in a volunteer capacity.**
 14 (3) **A first responder (as defined in IC 16-18-2-131) in a**
 15 **volunteer capacity.**

16 SECTION 3. IC 5-10-13-5 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Except as
 18 provided in section 6 of this chapter, an employee who:

- 19 (1) is diagnosed with a health condition caused by an exposure
 20 risk disease that:
 21 (A) requires medical treatment; and
 22 (B) results in total or partial disability or death;
 23 (2) by written affidavit has provided to the employee's employer
 24 a verification described in subsection (b), (c), (d), (e), or (f); and
 25 (3) before the employee is diagnosed with a health condition
 26 caused by hepatitis or tuberculosis, tests negative for evidence of
 27 hepatitis or tuberculosis through medical testing;
 28 is presumed to have a disability or death incurred in the line of duty.

29 (b) An employee who is diagnosed with a health condition caused
 30 by hepatitis and, if the health condition results in disability or death,
 31 wishes to have a presumption of disability or death incurred in the line
 32 of duty apply to the employee shall, by written affidavit executed
 33 before death, provide verification that the employee has not:

- 34 (1) outside the scope of the employee's:
 35 (A) current employment; **or**
 36 (B) **service as a volunteer;**
 37 been exposed through transfer of body fluids to an individual
 38 known to have a medical condition caused by hepatitis;
 39 (2) received blood products other than a transfusion received
 40 because of an injury to the employee that occurred in the scope of
 41 the employee's:
 42 (A) current employment; **or**

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1 **(B) service as a volunteer;**

2 (3) received blood products for the treatment of a coagulation
3 disorder since testing negative for hepatitis;

4 (4) engaged in sexual practices or other behavior identified as
5 high risk by the Centers for Disease Control and Prevention or the
6 Surgeon General of the United States;

7 (5) had sexual relations with another individual known to the
8 employee to have engaged in sexual practices or other behavior
9 described in subdivision (4); or

10 (6) used intravenous drugs that were not prescribed by a
11 physician.

12 (c) An employee who is diagnosed with a health condition caused
13 by meningococcal meningitis and, if the health condition results in
14 disability or death, wishes to have a presumption of disability or death
15 incurred in the line of duty apply to the employee shall, by written
16 affidavit executed before death, provide verification that the employee,
17 in the ten (10) days immediately preceding the diagnosis, was not
18 exposed to another individual known to:

19 (1) have meningococcal meningitis; or

20 (2) be an asymptomatic carrier of meningococcal meningitis;
21 outside the scope of the employee's current employment **or service as**
22 **a volunteer.**

23 (d) An employee who is diagnosed with a health condition caused
24 by tuberculosis and, if the health condition results in disability or death,
25 wishes to have a presumption of disability or death incurred in the line
26 of duty apply to the employee shall, by written affidavit executed
27 before death, provide verification that the employee has not, outside the
28 scope of the employee's:

29 (1) current employment; **or**

30 (2) **service as a volunteer;**

31 been exposed to another individual known to have tuberculosis.

32 (e) An employee who is diagnosed with a health condition caused
33 by AIDS or HIV and, if the health condition results in disability or
34 death, wishes to have a presumption of disability or death incurred in
35 the line of duty apply to the employee shall, by written affidavit
36 executed before death, provide verification that the employee has not:

37 (1) outside the scope of the employee's:

38 **(A) current employment; or**

39 **(B) service as a volunteer;**

40 been exposed through transfer of body fluids to an individual
41 known to have a medical condition caused by AIDS or HIV;

42 (2) received blood products other than a transfusion received

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because of an injury to the employee that occurred in the scope of the employee's:

(A) current employment; **or**

(B) **service as a volunteer;**

(3) received blood products for the treatment of a coagulation disorder since testing negative for AIDS or HIV;

(4) engaged in sexual practices or other behavior identified as high risk by the Centers for Disease Control and Prevention or the Surgeon General of the United States;

(5) had sexual relations with another individual known to the employee to have engaged in sexual practices or other behavior described in subdivision (4); or

(6) used intravenous drugs that were not prescribed by a physician.

(f) An employee who is diagnosed with a health condition caused by smallpox and, if the health condition results in disability or death, wishes to have a presumption of disability or death incurred in the line of duty apply to the employee shall, by written affidavit executed before death, provide verification that the employee has not, outside the scope of the employee's:

(1) current employment; **or**

(2) **service as a volunteer;**

been exposed to another individual known to have smallpox.

(g) A presumption of disability or death incurred in the line of duty may be rebutted by competent evidence, **including evidence that a health condition caused by an exposure risk disease was contracted during the employee's service as a volunteer.**

(h) A meeting or hearing held to rebut a presumption of disability or death incurred in the line of duty may be held as an executive session under IC 5-14-1.5-6.1(b)(1).

SECTION 4. IC 5-10-13-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7.5. (a) As used in this section, "volunteer fire department" has the meaning set forth in IC 36-8-12-2.**

(b) An employee who performs service as a volunteer shall file a report with the volunteer fire department or other entity with whom the employee volunteers of each known or reasonably suspected exposure to an exposure risk disease while the employee was performing service as a volunteer.

(c) The volunteer fire department or other entity with whom an employee performs service as a volunteer shall maintain a permanent record of a report filed under subsection (a).

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